

FILED**UNITED STATES DISTRICT COURT**

for the

Eastern District of North Carolina

FEB 15 2024

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY CRD DEP CLKUnited States of America
v.

Case No. 5:24-MJ-

1234-RN

Ever Arroyo Gasga

Defendant(s)**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 20, 2024 in the county of Wake in the
Eastern District of North Carolina, the defendant(s) violated:*Code Section*

18 U.S.C. § 922(a)(6)

Offense Description

False Statement During Purchase of a Firearm

This criminal complaint is based on these facts:

See attached

☒ Continued on the attached sheet.Robert A. Richards Jr.*Complainant's signature*

Robert A. Richards, Jr., FBI Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 over the telephone.

Date: February 15, 2024Robert T. Numbers II
*Judge's signature*City and state: Raleigh, NCRobert T. Numbers II, United States Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert A. Richards, Jr., your Affiant, being duly sworn, do hereby affirm and state the following.

AFFIANT BACKGROUND

1. I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7). Specifically, I am a duly appointed Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been employed as such since October 12, 1999. I am currently assigned to the FBI's Charlotte Division, Raleigh Resident Agency, Raleigh, North Carolina, to investigate violations of federal law. I am assigned to the FBI's Raleigh-Durham Safe Streets Task Force (RDSSTF) to investigate violations involving organized crime, money laundering, illegal narcotics, criminal street gangs, criminal enterprises, violent crimes, and firearm violations.
2. I have received training in basic and advanced investigative methods concerning organized crime, money laundering, gang identification, violent crime, and narcotic investigations, including the use of confidential human sources and Title III intercepts. From February 2000 to present, I have conducted investigations which have resulted in the arrest and conviction of numerous individuals involved with illegal narcotics trafficking, firearms violations, violent crimes, and criminal street gangs. As a result of these arrests

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and convictions, I have participated in the seizure of narcotics, money, United States currency, and physical assets. I have myself conducted, as well as assisted other law enforcement officers with physical surveillance, search warrants, seizure warrants, and arrests of persons involved in organized crime, violent crimes, illegal drug activity, criminal street gangs, and firearm violations.

3. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.

SOURCES OF INFORMATION

4. I make this affidavit based upon personal knowledge derived from my participation in this investigation; information that I have learned from discussions with other investigators; the review of written reports of investigation, arrests, and seizures; the review of reports of physical surveillance conducted by state and local officers or other federal agents; the review of telephone toll records; and the review of reports of debriefings of sources of information and other witnesses.
5. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by another law enforcement officer (who may have had either direct or hearsay knowledge of the statement) to whom I have spoken or whose report I have read and reviewed. Such statements are

stated in substance, unless otherwise indicated. Wherever in this affidavit I state a belief, such belief is based upon my training and experience and the information obtained through this investigation.

PURPOSE OF AFFIDAVIT

6. Affiant makes this affidavit in support of an application for the issuance of a Criminal Complaint in the matter of United States v. EVER ARROYO GASGA for making a false statement during the acquisition of a firearm in violation of 18 U.S.C. § 922(a)(6).

FACTS ESTABLISHING PROBABLE CAUSE

7. On February 5, 2024, at approximately 1533 hours, a 911 call was received by the Raleigh Police Department of a person shot at 1308 Poole Rd, Raleigh, NC. Raleigh Police responded to the residence and found a 24-year-old man suffering from an apparent gunshot wound. The victim was rushed to Wake Medical Center by EMS but died from his injuries shortly after arrival. A Glock model 23, .40 caliber pistol bearing serial number CBPV398 and shell casings were located inside the crime scene near the victim's location.
8. Also on February 5, 2024, at approximately 2031 hours (approximately five hours after the murder), EVER ARROYO GASGA contacted the Raleigh Police Department to report the larceny of firearm from a vehicle. GASGA did not know the serial number of the firearm but reported his Glock .40 caliber handgun, the associated magazine, and the original gun case were stolen from

his vehicle while he played basketball on February 4, 2024 at a park. GASGA reported purchasing the firearm at a recent gun show. Based on information revealed during the investigation, law enforcement believe that his report of the theft of the firearm was false.

9. On February 6, 2024, Raleigh Police homicide investigators identified fourteen-year-old J.T. as the subject who entered the residence at 1308 Poole Rd and shot and killed the victim the day prior. J.T. is seen on video prior to the murder associating with another male at 1305 Poole Rd. This male was positively identified by multiple officers and photo comparisons to be J'MARREE SMITH. SMITH is a known gang associate of J.T. In the surveillance video, it appears that when J.T. saw the victim entering the home at 1308 Poole Rd, he brought this to the attention of SMITH. SMITH made a phone call while J.T. appeared to scout the residence where the victim just entered. When J.T. returned he conferred again with SMITH. J.T. and a white female then walked toward the residence where the victim was located. SMITH then immediately ran the opposite way across New Bern Ave and took up a position to view the residence where the murder was about to occur before heading toward Roberts Park. After the shooting, J.T. and the female left and went to Roberts Park where SMITH was already waiting for them. J.T., SMITH and the female got a ride to near the intersection of Raleigh Blvd. and MLK Jr. Blvd. where J.T. and SMITH were dropped off near SMITH's residence. On February 9, 2024, SMITH was

also charged with murder for his role in the homicide.

10. On February 8, 2024, I received a Firearms Trace Summary from the Bureau of Alcohol, Tobacco, Firearms and Explosives National Tracing Center for the Glock model 23 handgun bearing serial number CBPV398 found at the scene of the homicide. The Firearms Trace Summary indicated the firearm was purchased on January 20, 2024 by EVER ARROYO GASGA from a federally licensed firearm dealer ("FFL"), identified as Southern Caliber Creations, Hertford, NC. Southern Caliber Creations sold the firearm to GASGA at the Dixie Gun & Knife Show located at 1025 Blue Ridge Road, Raleigh, NC on January 20, 2024.
11. On February 8, 2024, the FFL was contacted and provided a copy of the Firearm Transaction Record, ATF Form 4473, executed and signed by GASGA at the time of the purchase on January 20, 2024. The Form 4473 shows that during the purchase of the firearm, GASGA asserted he was the actual transferee/buyer of the firearm.
12. The ATF Form 4473 must be completed, signed and dated by the purchaser of a handgun from an FFL prior to delivery of the firearm to the purchaser. It is a record which must be kept by the FFL. The form contains information about the purchaser, the FFL (seller) and the firearm[s] to be purchased. The form lists several questions utilized in determining the lawfulness of a firearm sale to the proposed purchaser, including whether the purchaser is "the actual

transferee/buyer" of the firearm. The form warns that, "You are not the actual transferee/buyer if you are acquiring any of the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer any of the firearm(s) to you."

13. On February 8, 2024, law enforcement investigators obtained interior video surveillance footage of the Dixie Gun and Knife Show from January 20, 2024. A review of the video surveillance footage identified GASGA entering the gun show with several individuals, including ANSELMO IN ARROYO, JIMMY ARROYO-MALDONADO and J'MARREE SMITH.

14. Further review of the video surveillance footage for the gun show on January 20, 2024 revealed the following observations:

- a. At approximately 1126 hours, JIMMY ARROYO-MALDONADO points at a Glock firearm on the display table of Southern Caliber Creations and ANSELMO IN ARROYO looks at the firearm. Thereafter, JIMMY ARROYO-MALDONADO removes United States (US) currency from his pocket and appears to count out an amount. This counted amount of US currency is then handed to ANSELMO IN ARROYO who recounts it in the presence of GASGA. After counting it, ANSELMO IN ARROYO hands the currency to GASGA. All three individuals return to the display table and identify the firearm to the vendor representative. The representative points to the checkout area and GASGA walks over to

this location, sits down at the table, and fills out the purchasing paperwork (Form 4473).

- b. In reviewing the surveillance video, GASGA did not appear to look at/examine the firearm before making the purchase.
- c. At approximately 1243 hours, GASGA leaves the gun show carrying two firearm boxes accompanied by ANSELMO IN ARROYO and JIMMY ARROYO-MALDONADO.

15. On February 9, 2024, law enforcement conducted telephone toll analysis on JIMMY ARROYO-MALDONADO's telephone number of XXX-XXX-1193. On January 20, 2024 (date of the gun show), at approximately 1330 hours, JIMMY ARROYO-MALDONADO received a call from an inmate incarcerated in the North Carolina Department of Corrections. Law enforcement listened to the call and noted the following:

- a. At the start of the call, JIMMY ARROYO-MALDONADO says they are on the way home. The inmate asks if they got it. JIMMY ARROYO-MALDONADO replies yes. The inmate asks, "who the hell y'all got with you?" and Jimmy asks if he remembers "Ever, the young Ever, with the Mustang?" The inmate confirms that he does, and JIMMY ARROYO-MALDONADO says they took him, they don't give a fuck. JIMMY ARROYO-MALDONADO then says they got a 10 and a 23. Based on my training and experience, I believe the reference to a "10 and a 23"

are referring to a 10mm caliber firearm and a Glock model 23 (the model of the firearm purchased by GASGA at the gun show and later found at the scene of the murder on Poole Rd.).

- b. Additionally, the inmate asks if they gave Ever "some bread for doing you the favor," and JIMMY ARROYO-MALDONADO replies he gave him \$100.

CONCLUSION

16. Based on the information in this affidavit, there is probable cause to believe that on January 20, 2024, EVER ARROYO GASGA purchased a Glock model 23, .40 caliber handgun, bearing serial number CBPV398 from Southern Caliber Creations, a federal firearms licensee. EVER ARROYO GASGA, signed a Form 4473 certifying that he was the "actual transferee/buyer" of the firearm when he well knew that he had purchased the firearm for or on behalf of others, including JIMMY ARROYO-MALDONADO and/or J'MARREE SMITH. GASGA's statement was intended to, and did, deceive the FFL with respect to a fact material to the lawfulness of the sale of the firearm to GASGA, all in violation of Title 18, United States Code, Section 922(a)(6).

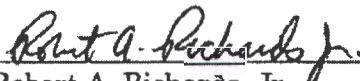
REQUEST FOR SEALING

17. This investigation is ongoing and is expected to be ongoing following the execution of the instant warrant. Therefore, IT IS FURTHER REQUESTED that the warrant, supporting application, affidavit, and associated pleadings be

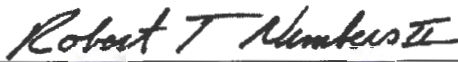
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filed UNDER SEAL until further order of the Court to avoid premature disclosure of the ongoing investigation, guard against flight, avoid the destruction of evidence, avoid the intimidation of witnesses, and better ensure the safety of agents and others, except that copies may be served on law enforcement officers of the FBI, federally deputized state and local law enforcement officers, and other government and contract personnel acting under the supervision of such investigative or law enforcement officers, as necessary to effectuate the Court's Orders.

Respectfully Submitted,


Robert A. Richards, Jr.
Special Agent
Federal Bureau of Investigation

Pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, the affiant appeared before me via reliable electronic means, was placed under oath, and attested to the contents of this written affidavit.
Dated: February 15, 2024


Robert T. Numbers, II
United States Magistrate Judge